

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DENISE FULEIHAN,

Plaintiff,

vs.

WELLS FARGO BANK, N.A., *et al.*,

Defendants.

Case No.: 2:09-cv-1877-RCJ-PAL

ORDER

The court conducted a telephonic dispute resolution conference beginning at at the deposition of Plaintiff Fuleihan at the request of the parties, beginning at 10:30 a.m. and concluding at 10:38 a.m. Cynthia Alexander, counsel for Wells Fargo Bank, N.A., and Karl Neilson, counsel for Fremont General Corporation, appeared on behalf of the Defendants. The Plaintiff appeared *pro se* with attorney Preston Kerr who indicated that he had been retained by the Plaintiff to defend her deposition. Counsel for the Defendants requested clarification of Mr. Kerr's role, and objected to his attendance at the deposition unless he intended to appear as counsel of record. Mr. Kerr indicated that he had been retained for purposes of this deposition, although he and the Plaintiff had discussed whether he might be retained for other purposes later. The Plaintiff confirmed that she had retained Mr. Kerr only to appear for her deposition because she was concerned about "being pushed around" by the attorneys who might ask improper questions.

Counsel for the Defendants objected to Mr. Kerr's participation because of the difficulty of complying with Rule 4.2 of the Rules of Professional Conduct, which prevents an attorney from communicating with a party represented by an attorney. Additionally, defense counsel objected to Mr. Kerr serving as a "ghost lawyer" drafting documents and providing legal advise without making a

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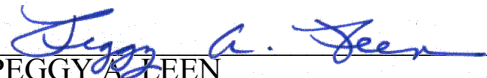
1 formal appearance. Mr. Kerr opined that the Plaintiff should be able to counsel with him whether or
2 not he intends to serve as counsel of record in this case.

3 Having considered the arguments of counsel,

4 **IT IS ORDERED** that:

- 5 1. Mr. Kerr may appear on the Plaintiff's behalf to defend this deposition.
- 6 2. If Mr. Kerr intends to provide any other legal services to the Plaintiff in connection with
7 this action, he must make an appearance in accordance with the Local Rules of Practice
8 and will not be permitted to withdraw without leave of court.
- 9 3. Plaintiff is and remains *pro se*, and she may be contacted by counsel for the Defendants
10 unless and until an attorney makes an appearance in this action in accordance with the
11 Local Rules of Practice.

12 Dated this 10th day of June, 2010.

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15 PEGGY A. LEEN
16 UNITED STATES MAGISTRATE JUDGE
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